HIGH COURT OF UTTARANCHAL AT NAINITAL

C-482 No.1015 OF 2006

Kabul Singh
S/o Shri Ridwa,
R/o Village-Simli, P.S. Laksar,
District-Haridwar.

.....Applicant.

Vs.

1. District & Sessions Judge, Haridwar, District – Haridwar.
2. Civil Judge (Jr. Div.)/J.M. Laksar, District-Haridwar.
3. Shri Ram, S/o Shri Ghasita Singh, R/o Village-Simli, P.S. Laksar, District-Haridwar.

.....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Ajay Vir Pundir, Counsel for the applicant and A.G.A. for the State.

2. By the present application filed under Section 482 of the Code of Criminal Procedure, the applicant has sought following relief:

> "It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to quash the order dated 09.11.2006 passed by respondent no.1 and order dated 07-07-2006 passed by respondent no. 2 in case no. 293 of 2004, State V/s Ram Pal and others, u/s 319 of Cr. P.C. and further be pleased to stay

the further proceedings of case no. 293 of 2004, u/s 323/325/504/506 I.P.C. otherwise the applicant shall suffer irreparable loss and injury, which cannot be compensated in any manner."

3. Briefly stated, respondent no. 3 filed an application under Section 156(3) of Cr. P.C. before the 2nd Additional Civil Judge (Jr. Div)/J.M. Roorkee, Haridwar stating therein that on 18.05.2004 around 10.00 p.m. when he came out from his house, he saw that some children are throwing concrete out side his house, thereafter he stopped the children. At the counterblast Ram Pal S/o Kabula, Smt. Babli, W/o Rampal, Deep Chand S/o Paltu Ram, Pradeep Kumar, S/o Paltu Ram and Kabula S/o Ridwa came on the spot and abused the respondent no.3 and attacked with Lathi and Iron rods.

4. The aforesaid case was investigated by the Investigating Officer and three persons namely Rampal, Deep Chand and Pradeep Kumar were charge-sheeted. Applicant was given the clean-chit.

5. Further during the investigation, Investigating Officer recorded statements under Section 161 Cr. P.C., wherein also nothing has been disclosed against the applicant.

6. Originally the applicant was named in the FIR, but no charge-sheet has been submitted against the applicant and therefore, on the application filed by the

prosecuting Officer, the applicant has been summoned on 07.072006.

7. Since it is a case under Section 319 under which the Judicial Magistrate has discretion to pass the order under Section 319 of the Code of Criminal Procedure.

8. I see no reason to interfere with the said order. The applicant is an old person. In case, he surrenders before the Magistrate concerned, his bail application shall be considered expeditiously preferably on the same day.

9. Subject to aforesaid observation, petition under Section 482 of the Code of Criminal Procedure is disposed of.

(Rajesh Tandon, J.)

22.12.2006
Rathour